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March 15, 1993

Office of the Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Dear Secretary:

EMI Communications Corporation hereby submits nine each copies plus one original of its comments on two separate FCC actions.

The two actions are FCC Docket 92-297 and FCC Docket 93-2.

We thank you for your cooperation in this matter.

Sincerely

William R. Lye  
Director, FCC Projects

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MAR 16 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of }

CC Docket No. 93-2

Amendment of Part 21 of the  
Commission's Rules for the  
Domestic Public Fixed Radio  
Services }

Notice of Proposed  
Rulemaking

Adopted: January 6, 1993  
Released: February 9, 1993

To: The Commission

Comments of EMI Communications Corporation

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Syracuse, NY 13221  
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EMI Communications Corporation is pleased to participate in this Federal Communications Commission rulemaking proceeding and appreciates the opportunity to share its comments regarding the above noted NPRM.

We recognize and agree with the Commission's action in responding to the Petition For Rulemaking filed by McCaw Cellular Communications, Inc. in this proceeding.

We also agree with the Commission's intention to reduce unnecessary FCC filing requirements and to implement new rules which represent a more expedient method for licensing Point-to-Point Microwave Radio Services (PPMS), and to streamline/consolidate certain FCC forms in the process. This should ultimately allow for faster delivery of services to the public, as well as a reduction of administrative labor intensity.

However, EMI has reservations and disagreements with some of the specific provisions within the NPRM and presents its suggestions and arguments herein.

As a facilities based Interexchange Common Carrier, EMI utilizes optical fiber, as well as wired and wireless technologies which includes an extensive point-to-point microwave system. The microwave system is comprised of approximately 250 transmission paths in various bands utilizing digital and analog modulation techniques. The microwave system transports data, voice and video signals within a thirteen state region of the northeastern United States.

As is shown, clearly EMI will be affected by this Commission action.

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**\*PERMITTING CONSTRUCTION UPON FILING FORM 494 IS APPROPRIATE AND NOT  
AUTHORIZING OPERATIONS PRIOR TO FCC GRANT IS NECESSARY\***

In the NPRM, the Commission suggests eliminating the requirement for an applicant to wait for FCC authorization to commence construction of a point-to-point microwave service (PPMS) radio station as long as the following requirements are met:

- Successful Frequency Coordination
- FAA Notification/Approval
- No Major Environmental Impact

Presently the rules require an applicant to delay construction until a conditional authorization is in hand.

Additionally, the Commission is proposing that the applied for station will not be authorized to operate until formal FCC license is granted and the responsibility for pre-authorization construction rests solely on the applicant.

EMI is in agreement with this proposal. However, we emphasize that pursuant to CFR 21.100(d) the Prior Coordination Notice and the subsequent FCC Public Notice processes must be successfully completed prior to operation of any of the stations. Further, we agree with the Commission that if an official license, for good cause shown, is denied all pre-authorization construction responsibilities should remain with the applicant.

In the NPRM the Commission acknowledges the possibility of a Petition To Deny being filed against an applicant. EMI feels that this should qualify as one of the responsibilities that would rest on an applicant that chooses to construct prior to an official grant. However, the Commission is silent regarding Petitions To Withhold Action.

EMI suggests that the Commission address the later petition type in a forthcoming FNPRM or subsequent Report and Order stating that it also would be an instance where pre-authorization construction is the sole responsibility of the applicant.

**\*MODIFICATIONS\***

EMI suggests that applications for modification of existing facilities should be subject to the same rules and requirements as for initial license applications.

As with an initial application, these need to be successfully frequency coordinated and the prior coordination notice process must be completed prior to any application being submitted to the FCC.

Additionally, operation of a modified system should not be permitted until license authorization is granted.

**\*FILING A SHORTENED CERTIFICATE OF COMPLETION IS STILL NECESSARY\***

It is EMI's opinion that a shortened Certificate of Completion is still necessary. There are several reasons which dictate this necessity.

We have seen through experience that occasionally a carrier will build a microwave path slightly different than the parameters that were prior coordinated or applied for. A simple and frequent example could be transmitter or receiver attenuation.

It is easily foreseeable that transmit or receive attenuation could deviate from how a facility was prior coordinated or licensed during implementation.

For spectral efficiency purposes, it is necessary that all data base records that are subject to use in frequency coordination reflect any variance of transmit or receive attenuation.

If the requirement to file a Certificate of Completion is eliminated, how will frequency coordination data bases be updated?

Another reason to continue to file completion certificates is for simple notification that a station has been constructed and is now on the air.

EMI suggests that assuming that a station is operating upon expiration of a conditional authorization is a dangerous precedent, and to further assume that the technical parameters are the same as prior coordinated and applied for only compounds the potential for erroneous assumptions.

We feel that a reduced filing requirement is still indicated and furthermore, official Public Notice of said filing is in the public interest.

**\*REDUCING THE CONSTRUCTION PERIOD TO SIX MONTHS WILL NOT WORK\***

In some cases a six month construction period may be appropriate. However, there are many instances where six months is much too short a period to perform the various tasks required to implement a microwave system.

For example, local zoning research and obtaining building permits frequently take thirty days to six months, it is not infrequent for equipment manufacturers to have 30-120 days of lead time requirements to deliver certain types of hardware. Additionally, when constructing a microwave facility in a high rise building in locations such as New York City, riser or conduit systems in themselves can take months to get building approval and complete the various tasks necessary to commence construction.

Indeed, many of the tasks required to implement a microwave system can be performed concurrently, but the simple fact remains that far too many systems being built require the current 18 months to complete. To reduce the construction period to six months would increase the number of requests for extension to the FCC. This would be counter productive to the goal of reducing administrative labor intensity and would not be in the public interest.

**\*THE LICENSEE QUALIFICATIONS SECTION OF THE PROPOSED 494 COULD BECOME BURDENSOME (specifically question No. 29 h)\***

EMI suggests that the proposed Form 494 which accompanies the NPRM is worded in such a way that will cause burdensome filing research by applicants and FCC staff personnel.

Question 29 h. (1) asks for a listing of all radio stations in which applicant has an interest. Obviously, in many cases, this will be an extensive listing, especially in the case of companies that have multiple ownerships and/or operate multiple types of radio systems.

Question 29 h. (2) asks for a listing of all other stations that the applicant has had interest in that is not included in 29 h. (1) for the past 15 years. In many cases this also will be an extensive listing.

This information is understandably important to the FCC and we have no opposition to providing it. However, when the information filing requirement in h. (1) is coupled with question h. (2), and understanding the dynamic nature of communications networks and the business environments, it is easily envisioned that in many cases, this will be a very large list that represents significant labor intensity to provide on a frequent basis.

EMI further suggests that many companies that operate multiple radio facilities also routinely and frequently file applications for initial licenses and modifications. In fact, many companies have multiple monthly filings with the FCC because of the previously mentioned dynamic nature of the systems, technology and business environments.

Indeed, when no change to a previously submitted listing has occurred, a letter stating "no change" should suffice. However, we feel that in light of the fact that changes are frequent, the "no change" letter will be infrequent with many of the applications.

EMI proposes that a periodic filing of this information is indicated, not a requirement for every application.

**\*THE PROPOSED FORM NO. 705 IS APPROPRIATE\***

EMI supports the Commission's proposal regarding consolidating FCC Forms 702 and 704, which relate to assignments or transfers, into the new FCC Form 705.